

MEMORANDUM

SEPTEMBER 11, 1975

TO: BOSTON REDEVELOPMENT AUTHORITY  
FROM: ROBERT T. KENNEY, DIRECTOR  
SUBJECT: FANEUIL HALL MARKETS PROJECT

It is expected that the Lease of the above-captioned Project will be delivered out of escrow during the early part of the week of September 15, 1975. The negotiations between the Authority, the City of Boston, Faneuil Hall Markets, Inc. (Rouse), and the several lending institutions have been protracted because of the substantial number of attorneys involved in the final preparation of the voluminous closing documents.

The closing does require the execution of two (2) amendments to the Authority's lease to Faneuil. One of the amendments concerns the location upon a small portion of Parcel D-10 of certain mechanical equipment servicing the Project which will not interfere with the temporary use of D-10 for surface parking nor the ultimate development of said parcel. The other amendment consists of forty-one (41) separate changes which are primarily concerned with clarification of language for purposes of clearly determining the respective rights of the Lessor, Lessee and Leasehold Mortgagees. In addition, the provisions concerning the collection, holding and disbursing of insurance proceeds or eminent domain awards have been modified so as to permit the proper administration of such monies in the event of restoration after a casualty or taking. Finally, the provisions concerning a "new lease" and the limitation of the personal liability of permitted transferees have been altered at the insistence of the lenders so as to protect the security of their leasehold mortgage.

These changes have been reviewed in detail and approved by both the Chief General Counsel and the Corporation Counsel. It is therefore recommended that the Director be authorized to execute these amendments (including similar amendments to the City Lease) so that this exciting and important Project might proceed without further delay.

An appropriate Vote is attached.

Attachment

VOTED: That the Director be and is hereby authorized on behalf of the Authority to execute a first and second amendment to a Lease by and between the Authority and the City of Boston concerning the Quincy Market Building and is further authorized to execute a first and second amendment to the Lease Agreement dated February 21, 1975, by and between the Authority and Faneuil Hall Marketplace, Inc., concerning the North and South Market Buildings and the Quincy Market Building; said amendments to be substantially in accordance with the attached forms.



FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE, made as of the  
day of \_\_\_\_\_, 1975, by and between the BOSTON REDEVELOP-  
MENT AUTHORITY, a public body politic and corporate organized  
under the laws of the Commonwealth of Massachusetts, (here-  
inafter, together with any successors or assigns permitted  
or authorized by the Lease referred to below, called "Lessor"),  
and FANEUIL HALL MARKETPLACE, INC., a corporation organized  
and existing under the laws of the State of Maryland and duly  
qualified to conduct business as a foreign corporation in the  
Commonwealth of Massachusetts (hereinafter, together with any  
successors or assigns permitted or authorized by said Lease,  
called "Lessee").

WITNESSETH:

WHEREAS, under date of February 21, 1975 Lessor and  
Lessee entered into a certain Indenture of Lease (the "Lease")  
wherein Lessor demised and let unto Lessee certain property  
situate in the City of Boston, Suffolk County, Massachusetts,  
as more particularly described in the Lease, a notice of  
said Lease having been recorded in the Suffolk County Registry  
of Deeds in Book \_\_\_\_\_ at Page \_\_\_\_\_; and

WHEREAS, all capitalized terms used herein shall  
have the same meanings as are attributed to them in the Lease,  
except where the context otherwise requires; and

WHEREAS, Lessor and Lessee mutually desire to amend the Lease in certain respects as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee do hereby covenant and agree as follows:

1. Section 4.04 is hereby amended by deleting the last four lines thereof and inserting the following in lieu thereof:

"(i) all proposed changes to the Plan which would affect:

(a) any use of the Property required or permitted by the Plan or this Lease,  
or

(b) the use of Parcel E-8 or Parcel D-10  
(both as shown on Schedule A) for  
parking purposes as required by Sections  
10.09 and 10.10; and

(ii) all other proposed changes in the Plan which would (in the reasonable judgment of Lessor) materially affect Lessee's rights and obligations under this Lease."

2. Section 4.08 is hereby amended by deleting the colon at the end of the ninth line and clauses



(a) through (e) and inserting in lieu thereof the following:

"any matters which are brought before it pursuant to section 4.06, Section 11.04 or the last paragraph of this Section 4.08. From time to time upon request of Lessee or any Leasehold Mortgagee, the Director of the Lessor (or his successor in office) shall issue certificates describing action taken by the Commission, or the status of any matter required to be submitted to the Commission, which certificates shall be conclusive evidence of the matters therein certified to and may be relied upon by Lessee or any Leasehold Mortgagee as the case may be."

3. Section 6.01 is hereby amended by changing the period which appears in the third line from the top of page 26 to a comma and inserting immediately thereafter the following:

"subject, however, to the provisions of Sections 15.03, 15.04, 15.05 and 15.07."

4. Section 7.01 is hereby amended by deleting the words "Tax Payments and" from the second line thereof and inserting, after the word "thereof" in the ninth line, the following:

"the Tax Payments or, if there shall be no agreement with respect to taxes between Lessee and the City".

5. Section 7.06 is hereby amended by adding at the end thereof the following:

"Nothing in this Section 7.06 or in Section 3.01(c) or elsewhere in this Lease shall be construed as a waiver or surrender by Lessee of any present or future right to maintain the Property or any portion thereof as a non-conforming use or of any similar right (whether by reason of a so-called "grandfather clause" or otherwise) arising in the event of any change in any statute, law, rule, order, regulation or ordinance."

6. Section 9.03 is hereby amended by deleting the words "Article XV of" from the seventh line thereof.

7. Section 11.04 is hereby amended by deleting the second and third sentences thereof and inserting in lieu thereof the following:

"In requesting such consent Lessee shall submit to Lessor, in sextuplicate, detailed plans and specifications of the proposed work and an explanation of the need and



reasons therefor. Prior to giving any such consent, the Lessor shall submit such plans, specifications and explanation to the Commission and shall afford the Commission a reasonable opportunity (not to exceed twenty days) to review the same and furnish Lessor with its comments thereon. If the proposed alteration, addition or change would affect the structural aspects of any of the Improvements or would alter the exterior appearance or the physical character of any of the Improvements in any significant respect, such alteration, addition or change shall be deemed to be material and Lessor may withhold its consent thereto in its sole discretion. Notwithstanding the provisions of this Section 11.04, after completion of the Rehabilitation as to the Quincy Market Phase or any Phase, Lessee or any Subtenant, without obtaining Lessor's consent, may make or permit to be made any material alteration of, addition to or change in the Improvements in such Quincy Market Phase or Phase in order to prepare

the same for occupancy by a Subtenant, provided that any such alteration, addition or change shall be made in accordance with and as permitted by such standards for Subtenant improvements as shall be included in the Final Working Drawings and Specifications approved by Lessor pursuant to Section 10.02 or any substitute for or modification of such standards which may be approved by Lessor from time to time. Lessor's consent shall not be required with respect to any alteration of, addition to or change in the Improvements which is not material.

If Lessor's consent to any alteration of, addition to, change in or demolition of all in any part of the Improvement shall be required by this Section 11.04, Lessor shall, within forty-five (45) days after such consent is requested, notify Lessee of the granting or withholding of its consent thereto and, if such consent shall be withheld, the reasons therefor shall be set forth in detail in such notice. If



within such forty-five (45) day period Lessor shall fail to notify Lessee of the granting or withholding of its consent as herein provided, such consent shall be conclusively deemed to have been given.

This Section 11.04 is intended only to govern physical changes in the Improvements and shall not be construed to permit or prohibit any particular use of the Property or any part thereof, which use shall be governed by Article IV."

8. Section 12.01 is hereby amended by inserting, after the word "use" in the fifth line, the following:

"or of only the leasehold estate hereunder".

9. Clause (a) of Section 12.03 is hereby amended by changing the comma at the end thereof to a semicolon and adding thereto the following:

"provided, however, that Lessee's share of any such balance shall be applied first to the payment of any past due Rent or additional rent, including (without limitation) any past due Tax Payments."

10. Clause (b) of Section 12.03 is hereby amended by deleting the balance thereof following the word "be" in the fourth line and inserting in lieu thereof the following:

"paid to Lessee, except that,

- (i) if any portion of any such award or payment is made by reason of any damage to or destruction of the Property, such portion shall be held and applied to pay the cost of restoration, and
- (ii) if any portion of an award or payment on account of a Taking for temporary use relates to a period beyond the date of termination of the Term, such portion shall be paid to Lessor, and
- (iii) if, at the time such award becomes payable to Lessee, any Rent or additional rent (including, without limitation, any Tax Payments) provided for hereunder shall be due and unpaid, such award shall be first applied to the payment thereof.

11. Clause (d) of Section 12.03 is hereby amended by deleting the last two words thereof and inserting in lieu thereof the following:

"as set forth in the second sentence of clause (a) of this Section 12.03, provided that any determination of the respective



Fair Market Value of Lessor's and Lessee's interests shall be made as if the Term of this Lease had not terminated."

12. Section 12.04 is hereby amended by deleting the last sentence thereof and inserting in lieu thereof the following:

"Lessor and Lessee shall jointly prosecute their claims for an award in a single proceeding, in which any Leasehold Mortgagee may join. Lessor and Lessee shall not prosecute separate claims for an award, except that Lessee and any Subtenant may prosecute separate claims for awards for moving expenses or on account of the Taking of any removable trade fixtures or for the unamortized portion of any leasehold improvements made by any Subtenant, but only to the extent that any such separate award shall not diminish the award made to Lessor and Lessee in respect of their joint claim."

13. Section 12.05 is hereby amended by adding at the end thereof the following:

"Any awards or payments which are to be held and applied to pay the cost of

restoration pursuant to clause (a) or clause (b)(i) of Section 12.03, shall be disbursed to Lessee as follows: From time to time as the work of restoration progresses, Lessee shall submit to the Depository a certificate of Lessee, signed by an executive officer thereof, and approved by an architect selected by Lessee and approved by Lessor (the "Architect"), which certificate shall (i) accurately describe the work for which Lessee is requesting payment and the cost incurred by Lessee in connection therewith, (ii) certify that Lessee has not theretofore received payment for such work, and (iii) contain or be accompanied by a statement by Lessor that the work for which Lessee is requesting payment has been performed in accordance with plans and specifications therefor approved by Lessor. Within five (5) days after receipt of any such certificate, the Depository shall pay to Lessee, from the awards or payments on hand, an amount equal to ninety per cent (90%) of the amount of the cost of the



work for which Lessee is requesting payment, as shown on such certificate. Upon completion of such work the remainder of such cost (to the extent of the balance of the awards or payments held by the Depository) shall be paid to Lessee within five (5) days after the delivery to the Depository of a certificate of the Lessee, signed by an executive officer thereof, approved by the Architect, stating that the work has been completed and setting forth the total cost thereof, which certificate shall: (a) contain or be accompanied by a statement by Lessor that the work has been completed substantially in accordance with plans and specifications therefor approved by Lessor, and (b) be accompanied by either (i) an unconditional waiver or release of mechanics' and materialmen's liens executed by all persons or entities supplying labor and/or materials in connection with such work, or (ii) other evidence, reasonably satisfactory to Lessor, that the period for filing any such lien has expired and no such lien has been filed, or, if filed, has been

bonded by Lessee to Lessor's and Depository's satisfaction. The Depository shall not be required to invest or to pay interest on any funds held by it hereunder, except that any funds not paid to Lessor or Lessee when payable hereunder and after demand therefor shall bear interest, accounting from the date of such demand, at the highest legal rate applicable to judgments in matters of contract in the Commonwealth of Massachusetts."

14. Section 13.01 is hereby amended by deleting the tenth line and inserting in lieu thereof the following:

"Lessor, Lessee, and, if required by a Leasehold Mortgagee, any Leasehold Mortgagee, as their respective interests may appear:"

15. Clause (a) of Section 13.01 is hereby amended by adding at the end thereof the following:

"At any time during the Term, if Lessor shall be of the opinion that the amount of any such insurance shall be less than the actual replacement cost (without deduction for depreciation) of the Property and equipment, and shall so notify Lessee, Lessee, within thirty (30) days after such notice is given,



shall arrange to increase the amount of such insurance by such amount as Lessor shall reasonably request, not exceeding, however, such actual replace cost (without deduction for depreciation)."

16. Clause (c) of Section 13.01 is hereby amended in the following respects:

(a) By deleting the words "Certificate of Final Completion" from the second line and inserting in lieu thereof the following:

"Certificates of Final Completion for the Quincy Market Phase and all of the other Phases, if any, as to which Lessee shall become obligated to complete the Rehabilitation,".

(b) By deleting the last line and inserting in lieu thereof the following:

"shall be customarily carried in the Metropolitan Boston area by other owners of similar premises and as shall be approved by Lessor (which approval shall not be unreasonably withheld)."

17. Clause (e) of Section 13.05 is hereby amended by deleting the words "in such amounts and" from the first and second lines thereof and by adding at the end of such clause the following new sentence:

"The amount of any such insurance shall be such as shall be customarily carried in the Metropolitan Boston area by other owners of of similar premises and as shall be approved by Lessor (which approval shall not be unreasonably withheld)."

18. Section 13.05 is hereby amended by adding at the end thereof the following:

"Any Leasehold Mortgagee shall have the right to join with Lessee and/or Lessor in any such prosecution or contest."

19. Section 13.07 is hereby amended by inserting, after the word "Lease" in the fourth line thereof, the following:

"and if Lessor shall give notice thereof to each Leasehold Mortgagee whose name and address has been furnished to Lessor pursuant to Section 9.03, and if such default shall not be cured by such Leasehold Mortgagee within fifteen (15) days after such notice is given, then".

20. Section 13.08 is hereby amended by changing the period at the end thereof to a comma and adding thereafter the following:



"other than the obligation to furnish the insurance policy or policies so accepted or approved."

21. Section 13.10 is hereby amended by deleting all of that portion thereof commencing with the word "but" in the seventh line from the top of page 74 and ending with the semicolon appearing in the third line from the bottom of the same page and inserting in lieu thereof the following:

"in accordance with the following procedure:  
From time to time as the work of rebuilding, replacing and repairing the damage or destruction to the Property required by Section 13.11 progresses, Lessee shall submit to the Insurance Trustee a certificate of Lessee, signed by an executive officer thereof, and approved by an architect selected by Lessee and approved by Lessor (the "Architect"), which certificate shall (i) accurately describe the work for which Lessee is requesting payment and the cost incurred by Lessee in connection therewith, (ii) certify that Lessee has not theretofore received payment for such work, and (iii) contain or be accompanied by a statement by Lessor that the work for which Lessee

is requesting payment has been performed in accordance with plans and specifications therefor approved by Lessor. Within five (5) days after receipt of any such certificate, the Insurance Trustee shall pay to Lessee, from the insurance proceeds on hand, an amount equal to ninety per cent (90%) of the amount of the cost of the work for which Lessee is requesting payment, as shown on such certificate. Upon completion of such work the remainder of such insurance proceeds shall be paid to Lessee within five (5) days after the delivery to the Insurance Trustee of a certificate of the Lessee, signed by an executive officer thereof, approved by the Architect, stating that the work has been completed and setting forth the total cost thereof, which certificate shall: (a) contain or be accompanied by a statement by Lessor that the work has been completed substantially in accordance with plans and specifications therefor approved by Lessor, and (b) be accompanied by either (i) an unconditional waiver of mechanics' and materialmen's liens executed by all persons



or entities supplying labor and/or materials in connection with such work, or (ii) other evidence, reasonably satisfactory to Lessor, that the period for filing any such lien has expired and no such lien has been filed, or, if filed, has been bonded by Lessee to Lessor's and Insurance Trustee's satisfaction;"

22. Section 13.10 is hereby amended by adding the following at the end thereof:

"The Insurance Trustee shall not be required to invest or pay interest on any funds held by it hereunder, except that any funds not paid to Lessor or Lessee when payable hereunder and after written demand therefor shall bear interest, accounting from the date of such demand, at the highest legal rate applicable to judgments in matters of contract in the Commonwealth of Massachusetts."

23. Section 13.11 is hereby amended by adding the following at the end thereof:

"Lessee shall not, however, be required to expend, in respect of any such reconstruction or repair made necessary by reason of a casualty covered by a policy or policies of

insurance applicable to the Property meeting the requirements of this Article XIII, a sum which exceeds the available net proceeds of such policy or policies of insurance. As used in the next preceding sentence, the term "available net proceeds" means the sum actually paid by the insurer or insurers in respect of the claim in question, less all costs and expenses incurred by Lessor, Lessee, any Leasehold Mortgagee or the Insurance Trustee in the collection, holding and disbursement of same, including (without limitation) reasonable attorney's fees. In the event any part of the Property is damaged or destroyed by reason of any casualty which is not required to be insured against pursuant to Section 13.01 and is not in fact insured against, then at Lessee's option, in lieu of rebuilding, replacing or repairing the portion of the Property so damaged or destroyed, Lessee may give notice to Lessor, within sixty (60) days after the occurrence of such damage or destruction, of Lessee's election to terminate this Lease as to the portion of the Property so damaged or destroyed



Lease shall thereupon terminate as to such portion of the Property and Lessee shall have no further obligation hereunder with respect thereto, except that, if Lessor shall so request within thirty (30) days after such notice is given, Lessee shall, at its expense, promptly demolish any buildings or other improvements situated on the portion of the Property as to which this Lease shall have been terminated and shall clear and grade such portion of the Property. Lessor and Lessee shall, at the request of either, execute such instruments or documents as may be reasonably necessary or desirable in order to amend this Lease to delete such portion of the Property from the description of the property demised hereby."

24. Section 13.12 is hereby amended by deleting the last nine lines thereof and inserting in lieu thereof the following:

"good faith judgment of Lessee, reasonably exercised, the Property, if restored by Lessee to the extent required by this Article XIII, would not yield sufficient annual net income to provide Lessee with an annual return on

Lessee's investment in the Property which is at least equal to the lesser of (i) the average annual rate of return on such investment actually realized by Lessor during the three (3) full Fiscal Years next preceding such damage or destruction, or, if the Rehabilitation of the Property shall not have been completed and in operation that long, then during all such Fiscal Years since the completion of such Rehabilitation; or (ii) the prevailing annual rate of return on investments in similar properties in the Metropolitan Boston area as of the date of such damage or destruction. This Lease shall thereupon terminate on such termination date, except with respect to obligations and liabilities of Lessee under this Lease, actual or contingent, which have arisen on or prior to such date. If this Lease is terminated pursuant to this Section 13.12, all insurance proceeds then held by the Insurance Trustee shall be divided between Lessor and Lessee in the same manner prescribed for the division of net awards and payments received on account of a Taking set forth in the second sentence of clause (a)



of Section 12.03, provided that any determination of the Fair Market Value of Lessor's and Lessee's interest shall be made as if the Term of this Lease had not terminated."

25. Clause (a) of Section 14.04 is hereby amended by deleting the words "the Certificate of Final Completion: in the first and second line and inserting in lieu thereof the following:

"Certificate of Final Completion for the Quincy Market Phase and all of the other Phases, if any, as to which Lessee shall become obligated to complete the Rehabilitation."

26. Clause (b) of Section 14.04 is hereby amended by deleting the same and inserting in lieu thereof the following:

"(b) Any Transfer by Leasehold Mortgage to an Institutional Lender or to an agent; designee or nominee of an Institutional Lender which is wholly owned or controlled by an Institutional Lender or, following issuance of Certificates of Final Completion of the Quincy Market Phase and all of the other Phases, if any, as to which Lessee shall become obligated to complete the Rehabilitation,

any Transfer to an Institutional Lender or to any such agent, designee or nominee of an Institutional Lender."

27. Clause (c) of Section 14.04 is hereby amended by changing the period at the end thereof to a comma and adding thereafter the following;

"or any Transfer made by the purchaser at foreclosure of a Leasehold Mortgage or by the grantee of a deed in lieu of foreclosure of a Leasehold Mortgage, provided that such purchaser or grantee is an Institutional Lender or an agent, designee or nominee of an Institutional Lender which is wholly owned or controlled by an Institutional Lender."

28. Section 14.06 is hereby amended by deleting the portion thereof commencing with the word "with" in the fourth line from the bottom of page 86 and ending with the comma at the end of the second line from the bottom of such page.

29. Section 14.06 is hereby further amended by deleting the figures "14.03" in the third line and inserting in lieu thereof the figures "14.04".

30. Section 14.07 is hereby amended by deleting clauses (a) and (b) and inserting in lieu thereof the following:

"(a) the last date for completion of the Quincy Market Phase or any of the other Phases as to which Lessee shall become obligated to complete the Rehabilitation fixed pursuant to Section 10.07; or

"(b) the issuance of Certificate of Final Completion for the Quincy Market Phase and all of the other Phases, if any, as to which Lessee shall become obligated to complete the Rehabilitation,".

31. Section 14.07 is hereby further amended by deleting the words "after the Rehabilitation completion date set forth in Section 10.07 or issuance of the Certificate of Final Completion," from the sixth, seventh and eighth lines from the top of page 88 and inserting in lieu thereof the following:

"on or after the first to occur of  
(i) the last date for completion of the Quincy Market Phase or any Phase as to



which Lessee shall become obligated to complete the Rehabilitation fixed pursuant to Section 10.07, or (ii) the issuance of Certificates of Final Completion for the Quincy Market Phase and all other Phases, if any, as to which Lessee shall become obligated to complete the Rehabilitation,".

32. Section 15.01 is hereby amended by deleting the words "the Certificate of Completion" from the last line thereof and inserting in lieu thereof the following:

"Certificates of Final completion for the Quincy Market Phase and all of the other Phases, if any, as to which Lessee shall become obligated to complete the Rehabilitation."

33. Section 15.03 is hereby amended by adding the following at the end thereof:

"Lessor's rights under this Section 15.03 are expressly subject to the rights of Leasehold Mortgagees under Section 15.07."

34. Section 15.04 is hereby amended by deleting the word "In" in the first line and inserting in lieu thereof the following:

"Subject to the rights of Leasehold Mortgagees under Section 15.07, in".

35. Section 15.05 is hereby amended by adding the following at the end thereof:

"Lessor's rights under this Section 15.05 are expressly subject to the rights of Leasehold Mortgagees under Section 15.07."

36. Section 15.07 is hereby deleted in its entirety and the following inserted in lieu thereof:

"Section 15.07. Rights of Leasehold Mortgagees. A. Lessor agrees to accept performance and compliance by any Leasehold Mortgagee of and with any term, covenant, agreement, provision or limitation on Lessee's part to be kept, observed or performed by Lessee.

"B. Lessor agrees that following an Event of Default and the expiration of any period within which Lessee may cure such default, it will take no action to terminate the Term nor to re-enter and take possession of the Property unless it shall first give each Leasehold Mortgagee notice after the expiration of any such cure period specifying such Event of Default and stating Lessor's

intention either to terminate the Term or to reenter and take possession of the Property on a date specified in such notice. Notwithstanding such notice the Term shall not be terminated nor shall Lessor re-enter and take possession of the Property if (i) such Event of Default can be cured by the payment of a fixed monetary amount and within twenty (20) days after the date such notice is given any Leasehold Mortgagee shall make such payment, or (ii) such Event of Default can be cured with the exercise of reasonable diligence by a Leasehold Mortgagee after obtaining possession of the Property and a Leasehold Mortgagee, within thirty (30) days after the date such notice is given, commences such proceedings (including, without limitation, the filing of a petition for the appointment of a receiver) as it may deem necessary to obtain such possession and thereafter diligently prosecutes such action and promptly upon obtaining such possession commences (and thereafter diligently pursues) the curing of such default, or (iii) such Event of



Default is not capable of being cured by a Leasehold Mortgagee, even if possession of the Property were obtained, and a Leasehold Mortgagee, within sixty (60) days after the date such notice is given, institutes foreclosure proceedings and thereafter prosecutes the same with diligence or otherwise acquires Lessee's interest in this Lease, and such Event of Default thereupon shall be deemed to have been waived.

"C. In the event of the termination of this Lease prior to its stated expiration date by reason of the occurrence of an Event of Default or by reason of the operation of law, Lessor shall give all Leasehold Mortgagees notice of such termination and shall enter into a new lease of the Property with a Leasehold Mortgagee or, at the request of such Leasehold Mortgagee, with an assignee, designee or nominee of such Leasehold Mortgagee for the remainder of the Term effective as of the date of such termination, at the Rent and upon the same covenants, agreements, terms, provisions and limita-

tions as are herein contained, provided (i) such Leasehold Mortgagee makes written request upon Lessor for such new lease within thirty (30) days after the giving of such notice of termination and such written request is accompanied by payment to Lessor of all amounts then due to Lessor of which Lessor shall have given the Leasehold Mortgagee notice, (ii) such Leasehold Mortgagee pays or causes to be paid to Lessor at the time of the execution and delivery of such new lease any and all additional sums which would at the time of the execution and delivery thereof be due under this Lease but for such termination and pays or causes to be paid any and all expenses including reasonable counsel fees, court costs and costs and disbursements incurred by Lessor in connection with any such termination and in connection with the execution and delivery of such new lease and any conveyance of title to the Improvements, less the net income from the Property collected by Lessor subsequent to the date of the

termination of this Lease and prior to the execution and delivery of such new lease, and (iii) such Leasehold Mortgagee agrees to cure, within thirty (30) days after the execution and delivery of such new lease, all uncured Events of Default of which Lessor shall have given the Leasehold Mortgagee notice (except any Event of Default which is not capable of being cured by a Leasehold Mortgagee, even if possession of the Property were obtained, which Event of Default, if any, shall be deemed to have been waived), or if any such Event of Default cannot be cured within such period, such Leasehold Mortgagee agrees to commence, within such period, to cure such Event of Default and thereafter pursues the same with due diligence. If Lessor receives written requests in accordance with the provisions of this Section from more than one Leasehold Mortgagee, Lessor shall only be required to deliver the new lease to the Leasehold Mortgagee who is, among those Leasehold Mortgagees requesting a new lease, the holder of the most junior



Leasehold Mortgage, provided that such Leasehold Mortgagee shall, not later than the execution of such new lease, pay in full the sums secured by all Leasehold Mortgages which are prior in lien to the Leasehold Mortgage held by such Leasehold Mortgagee. Any new lease made pursuant to this paragraph shall be prior to any mortgage or other lien, charge or encumbrance on the fee of the Property and shall have the same relative priority in time and in right as this Lease and shall have the benefit of all of the right, title, powers and privileges of the Lessee hereunder in and to the Property and the Improvements. At Lessee's request, Lessor will enter into an agreement with any Leasehold Mortgagee granting to the Leasehold Mortgagee the rights set forth in this Section 15.07."

"D. This Lease shall not be modified, amended, surrendered, cancelled or wholly or partially terminated by Lessee, nor shall any waiver of Lessee's rights hereunder or any approval or consent of

Lessee required hereunder be effective,  
without the written consent of each  
Leasehold Mortgagee whose name and  
address shall have been furnished to  
Lessor pursuant to Section 9.03."

37. Section 15.08 is hereby amended by deleting the period at the end thereof and inserting in lieu thereof the following:

"(including, without limitation, the limitations on Lessor's rights expressed in Section 15.07)."

38. Section 15.09 is hereby amended by inserting, prior to the word "Lessee" in the first line, the following:

"Without prejudice to the rights of Leasehold Mortgagees under Section 15.07,".

39. Section 15.11 is hereby amended by inserting, following the word "Lessee" in the second line from the top of page 108, the following:

"shall be postponed by the period of time during which such performance"

40. Section 18.12 is hereby amended by deleting the period at the end of the first sentence and the period at the end of the second sentence and inserting in lieu thereof in each instance the following:

"; provided, however, that no person, corporation or other legal entity acquiring any of the right, title or interest of Lessee in and to the leasehold estate in the Property shall be liable under this Lease with respect to any matter arising prior or subsequent to the period of such person's, corporation's or other legal entity's actual ownership of such right, title or interest."

41. Except as herein expressly modified, the Lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed these presents in form and manner proper and sufficient in law as of the day and year first hereinabove written.

ATTEST:

BOSTON REDEVELOPMENT AUTHORITY

\_\_\_\_\_  
By \_\_\_\_\_  
Director

[Seal]

ATTEST:

FANEUIL HALL MARKETPLACE, INC.

\_\_\_\_\_  
By \_\_\_\_\_  
Vice President

[Corporate Seal]



SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE, made as of the  
day of \_\_\_\_\_, 1975 by and between the  
BOSTON REDEVELOPMENT AUTHORITY, a public body politic and  
corporate organized under the laws of the Commonwealth of  
Massachusetts, (hereinafter, together with any successors or  
assigns permitted or authorized by the Lease referred to below,  
called "Lessor"), and FANEUIL HALL MARKETPLACE, INC., a  
corporation organized and existing under the laws of the  
State of Maryland and duly qualified to conduct business as  
a foreign corporation in the Commonwealth of Massachusetts  
(hereinafter, together with any successors or assigns permitted  
or authorized by said Lease, called "Lessee").

W I T N E S S E T H :

WHEREAS, under date of February 21, 1975, Lessor and  
Lessee entered into a certain Indenture of Lease wherein Lessor  
demised and let unto Lessee certain property situate in the  
City of Boston, Suffolk County, Massachusetts, as more particularly  
described in said Indenture of Lease, said Indenture of Lease  
having been recorded in the Suffolk County Registry of Deeds  
in Book \_\_\_\_\_ at Page \_\_\_\_\_ ; and

WHEREAS, under date of \_\_\_\_\_, 1975, Lessor  
and Lessee entered into a certain First Amendment of Lease,

amending said Indenture of Lease, which First Amendment of Lease is intended to be recorded in the Suffolk County Registry of Deeds simultaneously herewith (said Indenture of Lease, as so amended, being hereinafter referred to as the "Lease"); and

WHEREAS, all capitalized terms used herein shall have the same meanings as are attributed to them in the Lease, except where the context otherwise requires; and

WHEREAS, Lessor and Lessee mutually desire to further amend the Lease in certain respects as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee do hereby covenant and agree as follows:

1. Schedules "A" and "B" attached to the Lease are hereby amended by deleting the same and inserting in lieu thereof Schedules "A" and "B" attached hereto and made a part hereof. The Lessor, for and in consideration of the sum of One Dollar (\$1.00) to it in hand paid, receipt of which is hereby acknowledged, and for and in consideration of the rents, covenants and agreements reserved, mentioned and contained in the Lease on the part of Lessee to be paid, kept, observed and performed, has leased, rented, let and demised, and by these presents does lease, rent, let and demise unto Lessee and Lessee does hereby take and hire, upon and subject to the conditions and limitations expressed in the Lease, that certain property described as Parcel 2 in Schedule "B" attached hereto and shown on Schedule "A" attached hereto, to

have and to hold the same, subject as aforesaid and subject to the terms, covenants, agreements and provisions of the Lease, unto Lessee for the uses and purposes described in Article IV of the Lease for the Term.

2. Schedules "H", "I", "J" and "K" attached to the Lease are hereby amended by deleting the same and inserting in lieu thereof Schedules "H", "I", "J" and "K" attached hereto and made a part hereof.

3. Section 10.10 is hereby amended by deleting the figure "203" in the eighth line and inserting in lieu thereof figure " ".

4. Article IV is hereby amended by adding thereto the following new Section:

"Section 4.09. Mechanical Equipment Area. Lessee shall use the portion of the Property described as Parcel 2 in Schedule B (the "Mechanical Equipment Area") solely for the installation, construction, maintenance, replacement and repair from time to time, of such mechanical and electrical equipment as it may deem necessary or desirable in order to provide heating and air-conditioning to buildings, structures and other improvements on the Property and such walls, fences or landscaping as Lessee shall deem necessary or desirable in order to screen such equipment from public view (said equipment and screening being referred to herein as the "Mechanical Equipment Facilities"); provided that any such installation or construction shall be accomplished in accordance with plans and specifications therefor



approved by Lessor pursuant to the provisions of Article X. At any time after Lessor shall no longer be required to operate (or cause to be operated) the Parking Facility on Parcel D-10 pursuant to Section 10.10, if Lessor shall determine, in good faith, that the location of the Mechanical Equipment Facilities unreasonably interferes with the development or use of Parcel D-10, Lessor may require Lessee to relocate the Mechanical Equipment Facilities to another mutually agreeable location on said Parcel D-10 or, if Lessor and Lessee cannot agree on such location within thirty (30) days after written notice to Lessee of Lessor's election to exercise its right to require such relocation, to such location in former South Market Street as Lessee shall specify and Lessor shall approve (which approval shall not be unreasonably withheld). Promptly after the determination of the new location of the Mechanical Equipment Facilities (the "New Mechanical Equipment Area") pursuant to the next preceding sentences, Lessor and Lessee shall (and Lessee shall cause all Leasehold Mortgagees to) execute and deliver such instruments or documents as shall be necessary to evidence the termination of this Lease as to the Mechanical Equipment Area and the demise to Lessee under this Lease of the New Mechanical Equipment Area (unless the same shall be part of the Property) and,

in addition thereto, Lessor shall deliver to Lessee (i) evidence, reasonably satisfactory to Lessee, that Lessor is the owner of an estate in fee simple in the New Mechanical Equipment Area, free and clear of all liens, encumbrances, restrictions, covenants or clouds on title, unless the New Mechanical Equipment Area is part of the Property in which case Lessor shall not be required to deliver such evidence to Lessee, and (ii) such easements, supplements to the City Lease or other agreements with the City or others as Lessee shall deem reasonably necessary to relocate the Easement Area. Within ninety (90) days after such instruments or documents shall have been executed and delivered and such evidence, easements, supplements or other documents shall have been provided, Lessee shall remove the Mechanical Equipment Facilities from the Mechanical Equipment Area and shall install, construct or reconstruct the same or substitute facilities in the New Mechanical Equipment Area at Lessee's sole cost and expense; provided that if, at the time Lessee is required to undertake and complete such relocation, any Leasehold Mortgagee shall be the Lessee hereunder by reason of having acquired the leasehold estate created by this Lease by foreclosure of a Leasehold Mortgage or by deed in lieu of any such foreclosure, or by the execution of a new lease pursuant to Subsection C of Section 15.07, such

relocation shall be at the expense of Lessor, who shall reimburse Lessee, after demand therefor and upon completion of such relocation, for all costs and expenses incurred by Lessee in connection with such relocation.

4. Except as herein expressly modified or amended, the Lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have executed these presents in form and manner proper and sufficient in law as of the day and year first hereinabove written.

ATTEST:

BOSTON REDEVELOPMENT AUTHORITY

\_\_\_\_\_  
By: \_\_\_\_\_  
Director

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Chief General Counsel

ATTEST:

FANEUIL HALL MARKETPLACE, INC.

\_\_\_\_\_  
Assistant Secretary

By: \_\_\_\_\_  
Vice President

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this       day of       , 1975, before me appeared Robert T. Kenney, Director of the Boston Redevelopment Authority, who executed the foregoing Indenture of Lease on behalf of the Boston Redevelopment Authority and who being by me duly sworn, acknowledged the foregoing Indenture of Lease to be the free act and deed of the Boston Redevelopment Authority.

---

Notary Public  
My commission expires:

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this       day of       , 1975, before me appeared       , the Vice President of Faneuil Hall Marketplace, Inc., who being by me duly sworn, acknowledged the foregoing Indenture of Lease to be the free act and deed of said corporation.

---

Notary Public  
My commission expires:



## SCHEDULE A

(Schedule A will be a revised version of present Schedule A of the BRA Lease showing the mechanical equipment site and the easement area in Commercial Street and the courses and distances of both. The easement area will be labelled "Easement Area")

SCHEDULE B

Attached to and forming part of a certain Indenture of Lease dated as of \_\_\_\_\_, 1974, between the BOSTON REDEVELOPMENT AUTHORITY and FANEUIL HALL MARKETPLACE, INC.

Parcel I

That certain lot or parcel of land situate in the City of Boston, County of Suffolk, Commonwealth of Massachusetts known and described as follows:

Beginning at a point being the intersection of the southerly sideline of Clinton Street and the westerly sideline of Commercial Street, also being a point on the Mass. Coordinate System, N496109.90, E720439.77,

thence running in a southerly direction on the westerly sideline of Commercial Street a distance of 50.25' along a bearing of S07°-46'-43"E,

thence a distance of 64.18' along a bearing of S07°-57'-00"E,

thence 51.73' along a bearing of S07°-47'-36"E,

thence 101.31' along a bearing of S06°-47'-46"E,

thence 64.97' on a bearing of S07°-35'-04"E,

thence turning and running along a westerly direction on the northerly sideline of Chatham Street a distance of 27.88' along a bearing of S82°-24'-56"W,

thence 234.58' along a bearing of S82°-26'-52"W,

thence 69.05' on a bearing of S82°-30'-07"W,

thence a distance of 188.48' on a bearing of S82°-26'-14"W,

thence 52.66' on a bearing of S79°-42'-58"W,

thence turning and running in a northerly direction a distance of 63.93' along a bearing of N07°-54'-44"W,

thence turning and running in a westerly direction a distance of 64.39' along a bearing of S82°-29'-17"W,

thence a distance of 0.68' on a bearing of S82°-34'-41"W,

thence turning and running in the northerly direction a distance of 2.00' along a bearing of N10°-43'-40"W,

thence turning and running in a westerly direction a distance of 75.45' along a bearing of S82°-24'-06"W,

thence turning and running in a northerly direction a distance of 42.87' along a bearing of N07°-54'-01"W,

thence turning and running in an easterly direction a distance of 132.77' on a bearing of N82°-23'-37"E,

thence turning and running in a northerly direction a distance of 141.00' along a bearing of N07°-33'-41"W,

thence turning and running in a westerly direction a distance of 133.59' along a bearing of S82°-26'-14"W,

thence turning and running in a northerly direction a distance of 48.31' along a bearing of N07°-53'-59"W, to a point,

thence turning and running along the southerly sideline of proposed North Street along an easterly arc of a curve to the right having a radius of 950.00' an arc distance of 95.31'.

thence continuing along an easterly arc of a curve to the right having a radius of 453.00' an arc distance of 50.01',

thence a distance of 44.38' along a bearing of N54°-02'-48"E,

thence along a southeasterly arc of a curve to the left having a radius of 11.00' an arc distance of 17.57',

thence a distance of 29.13' on a bearing of S36°-20'-05"E,

thence turning and running in an easterly direction on the southerly sideline of Clinton Street a distance of 157.25' along a bearing of N82°-25'-17"E to the westerly property line of Durgin Park Parcel,

thence turning and running in a southerly direction along the westerly sideline of Durgin Park a distance of 57.06' on a bearing of S07°-49'-28"E,

thence turning and running in an easterly direction a distance of 66.00' on a bearing of N82°-26'-42"E,

thence turning and running in a northerly direction along the easterly property line of Durgin Park a distance of 57.09' on a bearing of NO7°-49'28"W,

thence turning and running in an easterly direction a distance of 89.88' on a bearing of N82°-25'-17"E,

thence a distance of 152.35' on a bearing of N84°-28'-26"E,

thence a distance of 46.79' along a bearing of N84°-22'-47"E to the point of beginning,

Containing an area (excluding Quincy Market Building) of one hundred eighty-one thousand six hundred thirty-six (181,636) square feet, more or less.

TOGETHER WITH all of the rights, title and interest of the Lessor in and to all or any portion of the streets and sidewalks abutting or adjacent to the property described above (including without limitation, Clinton Street, Chatham Street and Commercial Street as shown on Schedule B), but subject to the rights of the public therein.

SUBJECT TO AND TOGETHER WITH the easements, privileges, rights of use and obligations granted to and reserved by the City as more particularly described in Exhibit II of the City Lease.

#### Parcel 2

That certain lot or parcel of land situate in the City of Boston, County of Suffolk, Commonwealth of Massachusetts, known and described as follows:

(Insert legal description of Mechanical equipment site)

TOGETHER WITH all of the easements, rights and privileges granted, demised and let unto the Lessor and the Markets Lessee (as defined in the City Lease) and more particularly described as Parcel III in Exhibit III attached to and forming part of the City Lease.



## SCHEDULE H

(Schedule H will be the same as present Schedule H except that there will be added to it the mechanical equipment site and the easement area (marked "Easement Area") in Commercial Street, both of which should be shaded so as to indicate that they are part of the Quincy Market Phase)

SCHEDULE I

(Being legal descriptions of the Phases and  
Quincy Market Phase - revised to reflect relocation  
of mechanical equipment)

SCHEDULE J

(Being a revised version of the  
legal description of Parcel D-10)

SCHEDULE K

(Being the revised Parcel D-10 Plan  
showing the mechanical equipment site)



FIRST AMENDMENT TO CITY LEASE

THIS FIRST AMENDMENT TO CITY LEASE, made as of the  
day of                      , 1975, by and between the CITY OF BOSTON,  
a municipal corporation located in the Commonwealth of  
Massachusetts, (the "City") and the BOSTON REDEVELOPMENT  
AUTHORITY, a public body politic and corporate organized  
under the laws of the Commonwealth of Massachusetts, (the  
"Authority").

WITNESSETH:

WHEREAS, under date of February 21, 1975 the City  
and the Authority entered into a certain Indenture of Lease  
(the "City Lease") wherein the City demised and let unto  
the Authority certain property situate in the City, as more  
particularly described in the City Lease, said Lease having  
been recorded in the Suffolk County Registry of Deeds in  
Book              at Page              ; and

WHEREAS, all capitalized terms used herein shall  
have the same meanings as are attributed to them in the  
City Lease, except where the context otherwise requires; and

WHEREAS, the City and the Authority mutually desire  
to amend the City Lease in certain respects as hereinafter  
set forth.

NOW, THEREFORE, in consideration of the mutual

promises herein contained and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the City and the Authority do hereby covenant and agree as follows:

1. The City acknowledges and agrees that that certain First Amendment to Lease, dated \_\_\_\_\_, 1975, between the Authority and Faneuil, which amends the Markets Lease, has been submitted to, reviewed and approved by the Corporation Counsel of the City and, accordingly, any reference to the Markets Lease in the City Lease or herein shall be deemed to include said First Amendment to Lease.
2. Section 12.08 is hereby amended by inserting, following the word "Authority" in the fifth line from the top of page 18, the following:  
"shall be postponed by the period of time during which such performance".
3. Section 15.01 is hereby amended by deleting the period appearing in the fourth line and the words "The rights of nondisturbance granted hereunder" appearing in the fourth and fifth lines and inserting in lieu thereof the following:

"and, provided the Markets Lessee shall attorn to the City, the City shall assume and agree to perform all of

the duties and obligations of the Markets Lessor under the Markets Lease. The rights of nondisturbance granted hereunder and the agreement of the City to assume such duties and obligations of the Markets Lessor".

4. Section 16.01 is hereby amended by deleting the first sentence and inserting in lieu thereof the following:

"In the event that the Markets Lease terminates prior to the expiration of the Term hereof and if no Leasehold Mortgagee shall exercise its option to require the Markets Lessor to enter into a new lease pursuant to Section 15.07 of the Markets Lease, then this City Lease shall terminate automatically on the last day on which any Leasehold Mortgagee shall be entitled to require the Markets Lessor to enter into such new lease."

5. Except as herein expressly modified or amended the City Lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed these presents in form and manner proper and sufficient in law

as of the day and year first hereinabove written.

ATTEST:

CITY OF BOSTON

\_\_\_\_\_  
City Clerk

[Seal]

By: \_\_\_\_\_

Mayor

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Corporation Counsel

ATTEST:

BOSTON REDEVELOPMENT AUTHORITY

By: \_\_\_\_\_

Director

[Seal]

APPROVED AS TO LEGAL FORM

Chief \_\_\_\_\_  
General Counsel



SECOND AMENDMENT TO CITY LEASE

THIS SECOND AMENDMENT TO CITY LEASE, made as of the  
day of , 1975, by and between the CITY OF  
BOSTON, a municipal corporation located in the Commonwealth  
of Massachusetts, (the "City") and the BOSTON REDEVELOPMENT  
AUTHORITY, a public body politic and corporate organized  
under the laws of the Commonwealth of Massachusetts, (the  
"Authority").

WITNESSETH:

WHEREAS, under date of February 21, 1975 the City  
and the Authority entered into a certain Indenture of Lease  
wherein the City demised and let unto the Authority certain  
property situate in the City, as more particularly described  
in said Indenture of Lease, said Indenture of Lease having  
been recorded in the Suffolk County Registry of Deeds in  
Book at Page ; and

WHEREAS, under date of , 1975, the City  
and the Authority entered into a certain First Amendment to  
City Lease amending said Indenture of Lease, which First  
Amendment to City Lease is intended to be recorded in the Suffolk  
County Registry of Deeds simultaneously herewith (said Indenture  
of Lease, as so amended, being hereinafter referred to as the  
"City Lease"); and

WHEREAS, all capitalized terms used herein shall have the same meanings as are attributed to them in the City Lease, except where the context otherwise requires; and

WHEREAS, the City and the Authority mutually desire to further amend the Lease in certain respects as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the City and the Authority do hereby covenant and agree as follows:

1. Exhibits II and III attached to the City Lease are hereby amended by deleting the same and inserting in lieu thereof Exhibits II and III attached hereto and made a part hereof. The City, for and in consideration of the sum of One Dollar (\$1.00) to it in hand paid, receipt of which is hereby acknowledged, and for and in consideration of the rents, covenants and agreements hereinafter reserved, mentioned and contained on the part of the Authority to be paid, kept, observed and performed, has leased, rented, let and demised, and by these presents does lease, rent and demise unto the Authority, and the Authority does hereby take and hire, upon and subject to the conditions and limitations expressed in the City Lease, that certain property described as Parcel III in Exhibit II attached hereto and shown on Exhibit III

attached hereto, to have and to hold the same, subject as aforesaid and subject to the terms, covenants, agreements and provisions of the City Lease, unto the Authority for the uses and purposes described in Article IV of the Markets Lease for the Term.

2. The City acknowledges and agrees that that certain Second Amendment to Lease, dated \_\_\_\_\_, 1975, between the Authority and Faneuil, which amends the Markets Lease, has been submitted to, reviewed and approved by the Corporation Counsel of the City and, accordingly, any reference to the Markets Lease in the City Lease or herein shall be deemed to include said Second Amendment to Lease.

3. Except as herein expressly modified or amended, the City Lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have executed these presents in form and manner proper and sufficient in law as of the day and year first hereinabove written.

ATTEST:

CITY OF BOSTON

\_\_\_\_\_  
Asst. City Clerk

By: \_\_\_\_\_  
Kevin H. White, Mayor

[Seal]

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Corporation Counsel

ATTEST:

BOSTON REDEVELOPMENT AUTHORITY

By: \_\_\_\_\_  
Director

[Seal]

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
General Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

On this            day of            , 1975, before me, a Notary Public in said Commonwealth, duly commissioned and sworn, personally appeared Kevin H. White, known to me to be the Mayor of the City of Boston, who executed the within instrument on behalf of the City of Boston and acknowledged same to be the free act and deed of said City, and on oath stated that he was authorized to execute said instrument.

\_\_\_\_\_  
Notary Public  
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

On this            day of            , 1975, before me, a Notary Public in said Commonwealth, duly commissioned and sworn, personally appeared Robert T. Kenney, known to me to be the Director of the Boston Redevelopment Authority, who executed the within instrument on behalf of the Boston Redevelopment Authority and acknowledged same to be the free act and deed of said Authority, and on oath stated that he was authorized to execute said instrument.

\_\_\_\_\_  
Notary Public  
My commission expires:



EXHIBIT II

attached to and forming part of a certain Indenture of Lease dated as of February 21, 1975, between the CITY OF BOSTON and the BOSTON REDEVELOPMENT AUTHORITY.

Parcel I

1 that certain lot or parcel of land situated in the City of Boston, County of Suffolk, Commonwealth of Massachusetts, known and described as follows:

beginning at a point being the intersection of the southerly sideline of formerly North Market Street and the westerly sideline of Commercial Street, thence running in a southerly direction on the westerly sideline of Commercial Street a distance of 11.73' along a bearing of S07°47'36"E

thence turning and running 11.65' on a bearing of S81°51'02"W on the northerly sideline of formerly South Market Street

thence turning and running in a northerly direction 0.37' on a bearing of N7°40'54"W

thence turning and running in a westerly direction 46.45' on a bearing of W82°01'49"W

thence turning and running in a northerly direction 0.49' on a bearing of N07°31'11"W

thence turning and running in a westerly direction 172.90' on a bearing of W82°22'27"W

thence turning and running in a southerly direction 2.52' on a bearing of S07°31'11"E

thence turning and running in a westerly direction 74.63' on a bearing of W82°27'41"W

thence turning and running in a northerly direction 2.52' on a bearing of N07°31'11"W

thence turning and running in a westerly direction 173.03' on a bearing of W82°28'41"W

thence turning and running in a southerly direction 0.47' on a bearing of S07°31'11"E.

thence turning and running in a westerly direction 46.35' on a bearing of W82°36'45"W.

thence turning and running in a southerly direction 0.43' on a bearing of S07°39'40"E.

Thence turning and running in a westerly direction 15.57' on a bearing of S82°34'22"W

Thence turning and running in a northerly direction on the easterly sideline of formerly Merchants Row 52.01' on a bearing of N07°38'45"W

Thence turning and running in an easterly direction on the southerly sideline of formerly North Market Street 15.60' on a bearing of N82°24'32"E

Thence turning and running in a southerly direction 0.43' on a bearing of S07°39'40"E

Thence turning and running in an easterly direction 46.30' on a bearing of N82°28'48"E

Thence turning and running in a southerly direction 0.42' on a bearing of S07°31'12"E

Thence turning and running in an easterly direction 173.00' on a bearing of N82°28'48"E

Thence turning and running in a northerly direction 2.47' on a bearing of N07°31'12"W

Thence turning and running in an easterly direction 74.75' on a bearing of N82°28'48"E

Thence turning and running in a southerly direction 2.34' on a bearing of S07°31'12"E

Thence turning and running in an easterly direction 172.83' on a bearing of N82°28'48"E

Thence turning and running in a northerly direction 0.51' on a bearing of N07°31'12"W

Thence turning and running in an easterly direction 46.45' on a bearing of N82°28'48"E

Thence turning and running in a northerly direction 0.37' on a bearing of N07°40'54"W

Thence turning and running in an easterly direction 11.54' on a bearing of N82°51'12"E to the point of origin.

Containing an area of 27,727 square feet.

TOGETHER WITH the entire building situated on said described land known as the "Faneuil Hall Market" or the "Quincy Market".

Parcel II

So much of the following described parcel of land as is not included in Parcel I as is not presently owned by the Authority:

That certain lot or parcel of land situate in the City of Boston, County of Suffolk, Commonwealth of Massachusetts known and described as follows:

Beginning at a point being the intersection of the southerly sideline of Clinton Street and the westerly sideline of Commercial Street, also being a point on the Mass. Coordinate System, N496109.90, E720439.77,

thence running in a southerly direction on the westerly sideline of Commercial Street a distance of 50.25' along a bearing of S07°-46'-43"E,

thence a distance of 64.18' along a bearing of S07°-57'-00"E,

thence 51.73' along a bearing of S07°-47'-36"E,

thence 101.31' along a bearing of S06°-47'-46"E,

thence 64.97' on a bearing of S07°-35'-04"E,

thence turning and running along a westerly direction on the northerly sideline of Chatham Street a distance of 27.88' along a bearing of S82°-24'-56"W,

thence 234.58' along a bearing of S82°-26'-52"W,

thence 69.05' on a bearing of S82°-30'-07"W,

thence a distance of 188.48' on a bearing of S82°-26'-14"W,

thence 52.66' on a bearing of S79°-42'-58"W,

thence turning and running in a northerly direction a distance of 63.93' along a bearing of N07°-54'-44"W,

thence turning and running in a westerly direction a distance of 64.39' along a bearing of S82°-29'-17"W,

thence a distance of 0.68' on a bearing of S82°-34'-41"W,  
thence turning and running in the northerly direction a distance of 2.00' along a bearing of N10°-43'-40"W,  
thence turning and running in a westerly direction a distance of 75.45' along a bearing of S82°-24'-06"W,  
thence turning and running in a northerly direction a distance of 42.87' along a bearing of N07°-54'-01"W,  
thence turning and running in an easterly direction a distance of 132.77' on a bearing of N82°-23'-37"E,  
thence turning and running in a northerly direction a distance of 141.00' along a bearing of N07°-33'-41"W,  
thence turning and running in a westerly direction a distance of 133.59' along a bearing of S82°-26'-14"W,  
thence turning and running in a northerly direction a distance of 48.31' along a bearing of N07°-53'-59"W, to a point,  
thence turning and running by North Street as most recently laid out as shown upon a certain plan dated \_\_\_\_\_, 19\_\_ along an easterly arc of a curve having a radius of 950.00' an arc distance of 95.31'.  
thence continuing along an easterly arc of a curve having a radius of 453.00' an arc distance of 50.01',  
thence a distance of 44.38' along a bearing of N54°-02'-48"E,  
thence along a southeasterly arc of a curve having a radius of 11.00' an arc distance of 17.57',  
thence a distance of 29.13' on a bearing of S36°-20'-05"E,  
thence turning and running in an easterly direction on the southerly sideline of Clinton Street a distance of 157.25' along a bearing of N82°-25'-17"E to the westerly property line of Durgin Park Parcel,  
thence turning and running in a southerly direction along the westerly sideline of Durgin Park a distance of 57.06' on a bearing of S07°-49'-28"E,  
thence turning and running in an easterly direction a distance of 66.00' on a bearing of N82°-26'-42"E,



thence turning and running in a northerly direction along the easterly property line of Dungen Park a distance of 57.09' on a bearing of N07°-49'-28"W,

thence turning and running in an easterly direction a distance of 89.88' on a bearing of N82°-25'-17"E,

thence a distance of 152.35' on a bearing of N84°-28'-26"E,

thence a distance of 46.79' along a bearing of N84°-22'-47"E to the point of beginning,

Containing an area (excluding Quincy Market Building) of one hundred eighty-one thousand six hundred thirty-six (181,636) square feet, more or less.

### Parcel III

A perpetual, non-exclusive easement for the benefit of and use by the Authority and the Markets Lessee for the installation, construction, maintenance, replacement and repair of underground pipes, ducts, conduits or cables below the surface of that portion of Commercial Street (the "Easement Area") known and described as follows:

Beginning at a point on the easterly sideline of Commercial Street, said point being N7°-19'-52"W and 435.12 feet from the northerly sideline of State Street;

Thence running N7°-9'-52"W along the easterly sideline of Commercial Street, a distance of 6.16 feet;

Thence turning and running N10°-03'-57"E, a distance of 10.40 feet;

Thence turning and traversing Commercial Street S41°-12'-57"W a distance of 69.05 feet to a point on the westerly sideline of Commercial Street;

Thence running S07°-57'-00"E along the westerly sideline of Commercial Street, a distance of 13.22 feet;

Thence turning and traversing Commercial Street N41°-12'-57"E, a distance of 64.71 feet to the point and place of beginning;

Containing 659 square feet, as shown on a plan entitled "Faneuil Hall Marketplace, Boston, Mass.", by Harry R. Feldman, Inc., dated August 19, 1975.

for the purpose of permitting the Authority or the Markets Lessee to provide heating and air conditioning to buildings, structures or other improvements on the Property from mechanical and electrical equipment located on a certain parcel of land adjacent to the Easement Area known and described as follows:

That certain lot or parcel of land situate in the City of Boston, County of Suffolk, Commonwealth of Massachusetts, known and described as follows:

Beginning at a point on the easterly sideline of Commercial Street, said point is  $N7^{\circ}-19'-52''W$  and 435.12 feet from the northerly sideline of State Street;

Thence running  $N7^{\circ}-19'-52''W$  along the easterly sideline of Commercial Street a distance of 6.16 feet;

Thence turning and running  $N10^{\circ}-03'57''E$  a distance of 10.40 feet;

Thence turning and running  $S48^{\circ}-53'-10''E$  a distance of 52.73 feet;

Thence turning and running  $S41^{\circ}-06'-47''W$  a distance of 24.00 feet;

Thence turning and running  $N48^{\circ}-53'-13''W$  a distance of 5.51 feet;

Thence turning and running  $S82^{\circ}-40'-08''W$  a distance of 13.40 feet;

Thence turning and running  $S82^{\circ}-40'-08''W$  a distance of 10.60 feet;

Thence turning and running  $S82^{\circ}-40'-08''W$  a distance of 8.20 feet to the easterly sideline of Commercial Street and the point of beginning;

Containing 1737 square feet, as shown on a plan entitled, "Faneuil Hall Marketplace, Boston, Mass.," by Harry R. Feldman, Inc.,, dated August 19, 1975.

provided, that (i) except in the case of emergency, the Authority and the Markets Lessee will give twenty (20) days written notice to the City pursuant to Section 13.01 prior to the commencement of any such installation, construction, maintenance, replacement or repair, and (ii) the Authority or the Markets Lessee (as the case may be) shall prosecute any such installation, construction, maintenance, replacement or repair with diligence to completion (subject to delay on account of any cause mentioned in Section 15.11 of the Markets Lease), and (iii) in carrying out any such construction, installation, maintenance, replacement or repair, the Authority or the Markets Lessee (as the case may be) shall make reasonable efforts to minimize disruption of vehicular traffic on Commercial Street and will comply with all reasonable safety regulations prescribed by the City, and (iv) during the course of any such construction, installation, maintenance, replacement or repair, the Authority or the Markets Lessee (as the case may be) shall use reasonable care not to damage, or unnecessarily interfere with or disrupt any utility facility in the Easement Area, and (v) upon completion of any such construction, installation, maintenance, replacement or repair, the Authority or the Markets Lessee (as the case may be) shall restore the surface of the Easement Area to the same state and condition as existed immediately prior to the commencement of such construction, installation, maintenance, replacement or repair and will, thereafter, make such additional construction or repair as may become necessary as the result of any defective restoration or repair of such surface.

INCLUDED in the lands herein described are those certain parcels of land registered under Certificates of Title numbered

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THE CITY hereby reserves unto itself and the Authority hereby grants and conveys unto the City the following described rights and easements:

- (a) a perpetual, non-exclusive easement, for the benefit of and use by the general public, for reasonable, peaceful and orderly pedestrian access and passage between Dock Square and Commercial Street and between Chatham Street and Clinton Street (all as shown on Exhibit III) such pedestrian access and passage to be over and upon the surface of such portions of former North Market Street, former South Market Street, former Merchants Row and former Faneuil Hall Square (all as shown on Exhibit III) as shall not be occupied from time to time by any buildings or other structures, whether existing on the date hereof or hereafter constructed by the Markets Lessee pursuant to the Markets Lease, provided, that the Markets Lessee may interrupt such pedestrian access and passage to the extent that such interruption shall be reasonably necessary in order to enable the Markets Lessee to carry out the Rehabilitation (as defined in the Markets Lease) or the maintenance or repair of the Property (as defined in the Markets Lease) from time to time or to enable the Markets Lessee to carry out the construction of such additional structures and other improvements from time to time as may be required or permitted under the terms of the Markets Lease; and
- (b) a perpetual, non-exclusive utility easement for the benefit of and use by the City and its permitted assigns hereinafter mentioned, for the installation, construction, maintenance and repair of utility facilities including but not limited to water, gas, electric and telephone lines, pipes, conduits and cables and storm and sanitary sewers (but excluding any subway or other transportation facility), below the surface of those portions of former North Market Street, former South Market Street, former Merchants Row and former Faneuil Hall Square as are shown on Exhibit III, provided, that (i) nothing in this clause (b) shall in any way limit or impair the right of the Markets Lessee to construct improvements in, upon, above and under the portions of former North Market Street, former South Market Street, former Merchants Row and former Faneuil Hall Square shown on Exhibit III as permitted or required under the Markets Lease, except that if any structure is erected by the Markets Lessee in the easement area and



such structure shall interfere with the exercise by the City of the rights granted and reserved pursuant to this clause (b), with respect to any utility facility existing on the date hereof, such structure shall be removed by the Markets Lessee at its cost and expense, and (ii) except in case of emergency, the City will give twenty (20) days written notice to the Authority and the Markets Lessee prior to the commencement of any such installation, construction, maintenance or repair, and (iii) the City shall prosecute any such installation, construction, maintenance or repair with diligence to completion (subject to delay on account of any cause mentioned in Section 15.11 of the Markets Lease) and without any unnecessary interference with or disruption of the operations on the Property (as defined in the Markets Lease) of the Markets Lessee or any Subtenant (as defined in the Markets Lease), and (iv) in any event, the City shall not prosecute or carry on any such installation, construction, maintenance, or repair activity (except those repairs which in the City's reasonable judgment are deemed to be necessary by reason of emergency) during the period commencing with Thanksgiving and ending on Christmas in any year or during the four (4) week period preceding Easter in any year, and (v) during the course of any such construction, installation, maintenance or repair, the City will not unnecessarily interfere with or disrupt any utility serving any building or other structure on the Property, and (vi) in carrying out any such construction, installation, maintenance or repair, the City shall use reasonable care not to damage or unreasonably interfere with any underground moisture barrier or retardant device or system serving or protecting any building on the Property, and (vii) upon completion of any such construction, installation, maintenance and repair, the City shall restore the surface of the easement area to the same state and condition as existed immediately prior to the commencement of such construction, installation, maintenance or repair and will, thereafter, make such additional construction or repair as may become necessary as the result of any defective installation, construction or repair of such utility facilities or any defective restoration or repair of the surface, except that the City (but not its assigns hereinafter



mentioned) shall not be required to utilize any paving materials in restoring the surface of any such area other than asphalt, bituminous concrete or concrete.

The City may from time to time assign some or all of the rights (but subject nevertheless to the conditions, limitations and obligations set forth above) granted or reserved by the City in clause (b) above to any public utility company; provided, however, that written notice of such assignment shall be given promptly to the Markets Lessee in accordance with the provisions of Section 6.01 of the Markets Lease.

EXHIBIT III

(Being the same as revised  
Schedule A to the BRA Lease)

